United States Court of Appeals for the Second Circuit



APPENDIX

75-1040

Docket No. 75-1040

PAS

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

- against -

____X

INDICTMENT

Index No. 74 Cr. 764

CHARLES HODGES, DANIEL JORDANO ANDREW JORDAN, a/k/a Andrew Jordano, and ANTHONY MUFFUCCI,

Defendants-Appellants. :

APPENDIX

(Docket Sheets)

(Indictment)



RICHARD S. SCANLAN
ATTORNEY AT LAW
THE BAR BUILDING
199 MAIN STREET

WHITE PLAINS. N. Y. 10601

PAGINATION AS IN ORIGINAL COPY

APPENDIX

(Docket Sheets)
(Indictment)

ONLY COPY AVAILABLE

D. C. Form No. 100

CARTER

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| RIMINAL D | OCKE | TITLE OF CA | SE | | | ATTORNEY6 | | |
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| | | | | | For U. S.: | | | |
| | THE UN | ITED STA | TES | | Robert B. Hemley, AUSA. | | | |
| | | <i>vs</i> , | | | 264-6 | | | |
| CONTRACTOR OF THE PARTY OF THE | LES HODGES | 1/23/ | 75 | | | | | |
| CONTRACTOR OF THE PERSON NAMED IN COLUMN NAMED | EL JORDANO | a Andre | w Jordano | 1/25/75 | | | | |
| NAME OF TAXABLE PARTY. | | 1/28/1 | | | | | | |
| | | | 15:74 | | For Defendant | : | | |
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| Marshal, Attorney, | | | | | | | + | |
| And the same of th | oriensoure, 18 | | | | | - | | |
| * Whitemanny | 371,2113(a)(b), | 56 | | | | | | |
| Consp. t | to rob bank(Ct.1) | | | | | - | - | |
| Pohhary | of ins. bank(Cts | .28.3) | | | | | - | |
| | pez.(Ct.4) | | | | | - | | |
| | r Counts) | | | | | | | |
| | | | | PROCEEDINGS | | | | |
| DATE | | | | | | | | |
| 8-1-74 | Filed indictment. | | | | | | | |
| | | | | | | () Court | | |
| 3-5-74 | Deft. Charles Hodges produced on a writ, Writ satisfied (No Atty.) Court | | | | | | | |
| | directs a plea of Not Guilty, 10 days for more of | | | | | | | |
| | Deft. Fingerprinted and Photographed. | | | | | | | |
| | Deft. Daniel Jordano present, (No Atty.) Court director procession Bond. | | | | | | | |
| | B/W vacated. Ba | il fixe | d by cour | E at \$1,000 | Court direct | s a plea | of Not | |
| | Deft. Andrew Jo | rdano p | resent, | Mouletrat | e at \$5,000 | Personal | Recogniza | |
| | Guilty. Bail pr | eviousl | y fixed I | by Magistrac | | | | |
| | Bond co-signed | by wrie | • | | | | of Not | |
| | Deft. Anthony A Guilty. Bail pr | uffucci | y fixed | by the Magis | trate at \$5, | 000 Perso | onal Recog | |

| | | CLUM | C S PERS |
|----------|--|---|---------------------|
| COL | ntinued from tollowing pg. | PLAINTIPP | DEFENDANT |
| T | ofe Ponald Corbin present (No Atty.) Court directs a | | |
| | lea of Not Guilty. Bail fixed by court at \$5,000 Perso | mal | |
| | | | |
| | ecognizance Bond. Case assigned to CartegJ. as related | | |
| t | o74-cr-741. Stewart, J. Miled bench Warrant Issued for defit. MODGLD. | | |
| -7-74 E | filed bench warrant Issued | | |
| | JONDANO- Filed R. S. to the sum of \$5,000.00 unsecure | d Cler | : : . |
| - 5-7 | JORDANG- Filed L.E. S. th and sell of yo, occord | | - |
| | Filed Governments motios of readinger for trial. | | - |
| - 3-71 | ILlad Governments applied to livering to the critical | _ | |
| | | | |
| -1.2-74 | Gise marked off Cal Owen, J. (in part I) | | |
| | | | |
| -21-7 | AFFUCCI- Filed defendants maller for a little of partic | 112000 | |
| | | | |
| 0-2-74 0 | ALVIN HILL - Filed documents received from Mag. Raby Docket E | intry Sheet; | Indict, Wa |
| | Disposition Sheet. | | |
| | MUPPUCCI - Filed Notice of Motion for deft.returnable at a date dismissal, on Cts 2 & 4 etc.; granting pre trial hearingetc; | 1010101 | |
| | CHARLES HODGES (atty present) Withdraws his plea of Not Guilty Count 3 only. Pre-sentence report ordered. Sentence adjourn | and Pleads | CUILTY to |
| | CHARLES HODGES (atty present) Withdraws his plea of Not Guilty | and Pleads | CUILTY to |
| 10-15-71 | CHARLES HODGES (atty present) Withdraws his plea of Not Guilty Count 3 only. Pre-sentence report ordered. Sentence adjourn 9:30 A.M. Deft. continued on bail - CARTER, J. | and Pleads | CUILTY to |
| 10-15-71 | CHARLES HODGES (atty present) Withdraws his plea of Not Guilty Count 3 only. Pre-sentence report ordered. Sentence adjourn | and Pleads | CUILTY to |
| 10-15-74 | CHARLES HODGES (atty present) Withdraws his plea of Not Guilty Count 3 only. Pre-sentence report ordered. Sentence adjourn 9:30 A.M. Deft. continued on bail - CARTER, J. Filed Govt's Memorandum of Law | and Pleads | CUILTY to |
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| 113-74 Trial cont'd. | |
| 113-74 Trial cont'd. | |
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| -14-74 Trial cont'd, and concluded. Jury Villette MUFFUCI - GUILTY Cts. 1,2,3, | |
| | |
| DANTEL JORDANO-GUILTI GOULES 1,1,5 | |
| ANDRUM JORDAN - GULLY Country in the present bail of \$5,000. | |
| ANDREW JORDAN - GUILDY Counts 1,2,3, ANDREW JORDAN - GUILDY Counts 1,2,3, Pre-sentence report ordered. Defta'. Continued on present bail of \$5,000. Pre-sentence report ordered. Defta'. Continued on present bail of \$5,000. Personal Recognizance Bond as previously fixed by the Magistrate. As to Personal Recognizance Bond as previously fixed by the bonds are to be co-signed by | |
| Personal Recognizance Bond as promoted their bonds are to be co-signed by | 37 |
| deft. ANDREW JORDAN AND ANTHONY to 1/28/74 at 9:30 A.M. | J |
| deft. ANDREW JORDAN AND ANTHONY EUFFOCCI the 1/28/74 at 9:30 A.M. their wives. Sentenses are adjourned to 1/28/74 at 9:30 A.M. their wives. Sentenses are adjourned by MRS. MUFFUCCI | 3 |
| their wives. Sentenses are adjourned to the co-signed by MRS. MUFFUCCI Deft. DANIEL JORDANO'S bond to be co-signed by MRS. MUFFUCCI | |
| | |
| 12-16-74 JORDANO - Filed P/R/B w/o security sun of 25,000.00 | |
| 1, 1, 1/ | |
| Pollet Lines Filed Transcript of record of proceedings 2 1 233 Broadway, N.Y. | |
| | |
| 12-17-74 MUFFUCCI - Filed CJA 20 Appointing Marketo Garagement - CARTER, J counsel, original mailed to AOWash.D.C. for payment - CARTER, J | |
| counsel, original malies to Advantage | |
| ng-17-74 MUFFUCCI - CJA 20 - Copy 5, approving payment of counsel - CARTER, J. | |
| p-17-74 MIFFUCCI - CJA 20 - Copy 5, approving pagasett | |
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| 12-19-7h Writ Natiofied - MARTHUR, J. | |
| 12-19-71. Writ Matiefied - MARWARR, J. | |
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| was the second of whose times with Nove 4, 6, 7, 8, 1977 | |
| 12-20-71. Writ Satisfied - MARCHINE, J. 12-26-77 Fried Franciscopy of record of proceedings with Nov. 4, 6, 7, 8, 1977 12-26-77 Fried Franciscopy of record of proceedings with Nov. 16, 13, 14, 15, 1974 | |

| ec.27-74 | ANTHONY MUFFUCCIFiled proonal recommance bond without sourcity in the ant. of \$5,000. Filed govts. affdt. for w/h/c to produce Kenneth Williams as a without issued, Tyler, J. Writ satisfied on 12/17/74, Carter, J. FILED OPINION # 41729The issue to which the court on its own motion addressed itself, is whether Andrew Jordan and DAniel Jorganian addressed itself, is whether Andrew Jordan and DAniel Jorganian and DAniel Jorganian addressed itself, is whether Andrew Jordan and DAniel Jorganian and DANIEL JORGANIEL JOR | |
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| 1-14-75 | FILED OPINION # 41729The issue to which the court on its own | |
| | mispepresented their limital Justice Act. An evidentiary hearing counsel under the Criminal Justice Act. An evidentiary hearing determine that question was held on Dec. 27,1974. Accordingly, as to both parties, I conclude that there is nothing in the record to warrant changing the initial determination of the right of either deft. to court appointed counsel under the CJA Act. So ordered, Carter, J. m/n | to |
| 01-28-75 | ANTHONY MUFUCCIFILED JUDGMENT (atty. Richard Scanlan present) as to counts 1,2 & 3 (after being found guilty by a verdict)the is hereby committed to the custay of the Atty. General or his auth representative for imprisonment for a period of FIVE (5) YEARS on each of counts 1,2 and 3 to run concurrently with each other. Bai pending appeal is fixed \$7,500 cash or surety bond. Deft. advise of his rights to appeal. Carter, J. (copies issued) | 1 |
| | ANDREW JORDANOFILED JUDGMENT (atty. Benjamin Golub present) as to counts 1,2 & 3 (after being found guilty by a verdict) the deft. is hereby committed to the custady of the Atty. General or his authorized representative for imprisonment for a period of FIVE(5) YEARS on each of counts 1,2 and 3, to run concurrent1 of FIVE(5) YEARS on each of counts 1,2 and 3, to run concurrent1 with each other. Bail pending appeal is fixed at \$7,500 cash or surety bond. Deft. advised of his rights to appeal. Carter, J. (copies issued) | |
| | DANIEL JORDANOFILED JUDGMENT (atty. James LaRossa, present) the design is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts 1 2 and 3, to run concurrently with each other. Bail pending appeal is fixed in the sum of \$5,000, personal recognizance bond, unsecured. Deft. advised of rights to appeal. Carter, J. (copies issued) | fhis |
| 01-30-7 01-30-7 | Filed govts. memorandum of law re:testimony of NancyWilliams at the 2nd trial. 75 RONALD CORBIAFiled defts. requests to charge. 75 Filed govts. memorandum of law re:admissibility of thehearsay states of co-conspirators. 75 Filed govts. requests to charge. 75 Filed govts. requests to charge. 75 ANDREW JORDAN aka ANDREW JORDANOFiled defts. notice or appeal to USCA trom the final judgment dated January 28,19/5. (copies main to U.S. Attys. office and to deft. at 253 North Bdwy, Yonkers, North Bdwy, Yonk | tement |
| | Cou By . 5) | |

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| DATE OT-30-75 DANIEL JORDANOFiled defts. notice of appeal to the USCA from the judgment entered on January 28,1975.copies mailed to the U. S. Attys. Office and to deft's. home address at 2665 Grand Concourse, Bronx, N.Y. OZ-07-75 ANTHONY MUFFLICCIFiled defts. notice of appeal to the USCA from the judgment of conviction entered on Jan. 28,1975. (copies mailed to U.S. Attys. Office) OZ-06-75 CHARLES HODGES- (atty. and deft. present) (atty. Jewsie Berman)-Sentence adj. to March 5,1975 at 9:45am. Carter, J. 2-19-15 Littl Junearyt atta also 9-12-76 2-19-75 Julial Junearyt atta also 9-12-76 2-19-75 Julial Junearyt atta also 9-12-76 | D. C. 110 Re | Civil Docket Continuation | Date Orda |
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| the Judgment entried on January 1. home address at 2665 Grand Concourse, Bronx, N.Y. 22-07-75 ANTHONY MIFFURCT.—Filed defts, notice of appeal to the USCA from the judgment of conviction entered on Jan. 28, 1975. (copies mailed to U.S. Attys. Office) 32-06-75 CHARLES HODGES—(arty. and doft. present) (arty. Jewsie Herman)—Sentence adj. to March 5, 1975 at 9:45an. Carter, J. 2:19-75 Link Franciscopt atta also 9-12-7f 2:19-75 Link Franciscopt atta also 15, 17, 74 and fan 28, 75 | DATE | | |
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RDH:par d-730 UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v- : INDICTMENT

574 Cr. 764

CHARLES HODGES,
DANIEL JORDANO,
ANDREW JORDAN, a/k/a

Andres Jordano, and ANTHONY MUFFUCCI,

Defendants. :

COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of July, 1973, up to and including the date of the filing of this Indictment, in the Southern District of New York, CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, and ANTHONY MUFFUCCI, the defendants, together and with each other and with others to the Grand Jury known and unknown, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree to commit a crime against the United States of America, to wit, to violate Sections 2113(a) and 2113(b) of Title 18, United States Code.

2. It was part of said conspiracy that the defendants unlawfully, wilfully and knowingly, by force, violence and intimidation, would take and cause to be taken from the person and presence of another, sums of money belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York (hereinafter referred to as "the bank"), a bank whose deposits were then and there insured by the Federal Deposit Insurance Corporation.

RBH:par d-730

3. It was further part of said conspiracy that the defendants, unlawfully, wilfully and knowingly, with intent to steal and purloin, would take and carry away and cause to be taken and carried away sums of money belonging to and in the care, custody, control, management and possession of the bank.

Among the means whereby the defendants would and did carry out said conspiracy were the following:

- a) Ronald Corbia would according to prearranged plan with the defendants, carry a sum of money from
 the National Bank of North America, along Yonkers Avenue in
 Yonkers, New York, towards his place of employment, the
 Yonkers Savings Bank.
- b) At a designated location along the route, CHARLES HODGES, the defendant and another person known to the Grand Jury, would intercept Corbia, forcibly subdue any accompanying bank guards, and seize the money; Corbia would pretent to be a victim of the robbery.
- c) The defendant CHARLES HODGES yould thereafter deliver said proceeds to the defendant DANIEL JORDANO,
 who would, in turn, divide the proceeds among the other
 defendants.

OVERT ACTS

In furtherance of the said conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

- 1. On or about September 20, 1973, the defendants CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, and ANTHONY MUFFUCCI had a meeting in an apartment in Yonkers, New York, at which time they discussed the robbery plans.
- 2. On or about September 21, 1973, the defendants CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano and ANTHONY MUFFUCCI went to a diner on Yonkers Avenue in Yonkers, New York, and waited for a telephone call notifying them that Corbia had left the bank with the money.
- 3. On or about September 21, 1973, at Yonkers
 Avenue, Yonkers, New York, the defendant CHARLES HODGES
 took a bag containing approximately \$36,500 from Ronald
 Corbia.
- 4. On or about September 21, 1973, the defendant CHARLES HODGES placed the bag containing approximately \$35,500 which he took from Ronald Corbia in a 1973 blue Cadillac automobile with a white top.
- 5. On or about September 21, 1973, the defendants CHARLES HODGES and DANTEL JORDANO drove in a white Vega automobile to Fordham Road in the Bronx, New York, to give the defendant CHARLES HODGES his share of the money.

(Title 18, United States Code, Section 371.)

COUNT TID

The Grand Jury further charges:

on or about the 21st day of September, 1973, in the Southern District of New York, CHARLES HODGES,

DANIEL JORDANO, AUDIEN JORDAN, a/k/a Andrew Jordano,

and ANTHONY MUFFUCCI, the defendants, unlawfully,

willfully and knowingly did, by force, violence and

intimidation, take from the person and presence of

another, approximately \$35,500 belonging to and in the

care, custody, control, management and possession of

the Yonkers Savings Dank, 801 Yonkers Avenue, Youkers,

New York, a bank the deposits of which were then insured
by the Federal Deposit Insurance Corporation.

(Title 18, United States Code, Section 2113(a) and Section 2.)

COUNT THREE

The Grand Jury further charges:

On or about the 21st day of September, 1973, in the Southern District of New York, CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, and ANTHONY MUTFUCCI, the defendants, unlawfully, wilfully and knowingly, and with intent to steal and purloin, did take and carry away approximately \$35,500 belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

(Title 18, United States Code, Section 2113(b) and Section 2.)

AFFIRMATION OF SERVICE

STATE OF NEW YORK

) :ss.:

COUNTY OF WESTCHESTER)

RICHARD S. SCANLAN, respectfully states as follows:

- 1. I am an attorney at law duly admitted to practice before the Bar of the State of New York and before the Federal District Court for the Southern District of New York.
- 2. On March 26, 1975 I served a copy of the appendix and a copy of Appellant ANTHONY MUFFUCI's brief upon
 - a) ROBERT B. HEMLEY, Assistant United States Attorney, attorney for the Appellee herein, by personally delivering the same to his receptionist at the United States Courthouse Foley Square, New York, New York
 - b) JAMES LA ROSA, ESQ., attorney for DANIEL JORDANO, by personally delivering the same to his receptionist at 522 Fifth Avenue, New York, New York, and
 - c) BENJAMIN J. GOLUB, ESQ., attorney for ANDREW JORDAN, by personally delivering the same to his receptionist at 10 East 40th Street, New York, New York.
- 3. This affirmation is made under the penalties of perjury and pursuant to C.P.L.R. Rule 2106.

Dated: White Plains, New York March 26, 1975

RICHARD S. SCANLAN

| TATE | OF NEW | YORK, COUNTY OF | | 88.: | | |
|----------------------|------------------------------------|---|-------------------------------------|------------------------------------|---|---|
| he un | dersigned | an attorney admitted to pract | tice in the | courts of New | York State, | |
| | Certification By Attorney | certifies that the within has been compared by the un | dersigned | with the origina | al and found to be a true an | d complete copy. |
| | Attorney's | shows: deponent is | | | | |
| | Affirmation | | edge, exce | pt as to the matelieves it to be t | and knows the | the attorney(s) of record for eponent has read the foregoing e contents thereof; the same is eged on information and belief de by deponent and not by |
| | | The grounds of deponent's be | | | | |
| rı. | 1 | officers that the foresting star | tomanta or | o true, under the | e penalties of periury | |
| The ur Dated: | | affirms that the foregoing sta | tements ar | e true, under the | e penanties of perjury. | |
| pateu. | | | | | The name | e signed must be printed beneath |
| STATE | OF NEW | YORK, COUNTY OF | | 88. | | |
| | | | | | being duly sworn, | deposes and says: deponent is |
| · [| Individual Verification | | the | | | thin action; deponent has read |
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| | Corporate Verification | the | of | | | |
| | Verincation | a foregoing is true to deponent's own known belief, and as to those matter | corpor owledge, ex ers depone | xcept as to the n | and knows the natters therein stated to be o be true. This verification | n action; deponent has read the contents thereof; and the same alleged upon information and is made by deponent because I deponent is an officer thereof. |
| The g | rounds of | deponent's belief as to all ma | tters not s | tated upon depo | | |
| Sworn | to before | e me on | 19 | | The nam | e signed must be printed beneath |
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| STATE | E OF NEW | YORK, COUNTY OF | | 88. : | | |
| | | | | being duly swo | rn, deposes and says: depor | nent is not a party to the action, |
| is ove | r 18 years | of age and resides at | | | | |
| | Affidavit of Service By Mail | On upon | 19 | deponent serve | d the within | |
| | Dy mail | attorney(s) for | | in this action, | at | |
| Check Applicable Box | | by depositing a true copy of depository under the exclusiv | same enclove care and | osed in a post-pa | aid properly addressed wrap | aid attorney(s) for that purpose oper, in — a post office — official e within the State of New York. |
| Appl | Affidavit | On | 19 | at | | |
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| | | | herein l | by delivering a tr | rue copy thereof to h | the personally. Deponent knew the |
| | | person so served to be the per | | | | therein. |
| Swor | n to befor | e me on | 19 | | The nat | me signed must be grinted beneath |

The name signed must be printed beneath

NOTICE OF ENTRY

Sir:- Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.,

RICHARD S. SCANLAN

Attorney for

Office and Post Office Address
THE BAR BUILDING
199 MAIN STREET
WHITE PLAINS, N. Y. 10601

To

Attorney(s) for

NOTICE OF BETTLEMENT

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on the

day of

Sir: - Please take notice that an order

19

81

M.

Dated,

Yours, etc.,

RICHARD S. SCANLAN

Attorney for

Office and Post Office Address
THE BAR BUILDING
199 MAIN STREET
WHITE PLAINS, N. Y. 10601

To

Attorney(s) for

Index No.

Year 19

RICHARD S. SCANLAN

Attorney for

Office and Post Office Address, Telephone

THE BAR BUILDING 199 MAIN STREET WHITE PLAINS, N. Y. 10601

(914) 949-2560

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

1800- CIETS, JULIUS BLUMBERG, INC., 80 EXCHANGE PLACE, N. Y. 4